

ASSEMBLY BILL

No. 1504

Introduced by Assembly Member Skinner

February 27, 2009

An act to amend Sections 4512, 4513, 4551, 4551.3, and 4582 of, and to add Section 4512.5 to, the Public Resources Code, relating to forest resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 1504, as introduced, Skinner. Forest resources: carbon sequestration.

(1) The Z'berg-Nejedly Forest Practice Act of 1973, which regulates timber harvesting, contains legislative findings and declarations relative to forest resources, including a declaration that it is the policy of the state to encourage prudent and responsible forest resource management calculated to serve the public's need for timber and other forest products, while giving consideration to other specified public needs. The act also states the Legislature's intent to create and maintain an effective and comprehensive system of regulation and use of all timberlands to assure that the goal of maximum sustained production of high quality timber products is achieved while giving consideration to specified values. A willful violation of the act is a crime.

This bill would include in that list of specified public needs and that list of specified values sequestration of carbon dioxide. The bill also would make other legislative findings and declarations relative to carbon dioxide sequestration as it relates to forests.

(2) The act requires the State Board of Forestry and Fire Protection to adopt district forest practice rules and regulations for each forest district. A willful violation of the board's rules or regulations is a crime.

This bill would require the board to ensure that its rules and regulations governing the harvesting of commercial forest tree species maximize, to the extent feasible, the capacity of forest resources to sequester carbon dioxide emissions.

(3) The act requires a sustained yield plan that is prepared and approved in accordance with specified rules and regulations of the board to be effective for a period of no more than 10 years.

This bill would require the plan to contain strategies or measures to mitigate or avoid, to the maximum extent feasible, carbon dioxide emissions from the harvest of commercial forest tree species.

(4) The act prohibits a person from conducting timber operations unless a timber harvesting plan prepared by a registered professional forester has been submitted for the timber operations to the Department of Forestry and Fire Protection, and approved. The act requires a timber harvesting plan to include specified information.

This bill additionally would require the timber harvesting plan to include a description of strategies or measures to mitigate or avoid, to the maximum extent feasible, carbon dioxide emissions from timber operations.

(5) The bill would state the Legislature's intent to enact legislation to impose a timber yield fee upon harvested timber sufficient to cover the costs of the department to administer the act.

(6) Because a willful violation of the bill's provisions, or a rule or regulation adopted by the board pursuant to the bill, would be a crime, the bill would impose a state-mandated local program.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4512 of the Public Resources Code is
2 amended to read:
3 4512. (a) The Legislature hereby finds and declares that the
4 forest resources and timberlands of the state are among the most
5 valuable of the natural resources of the state and that there is great

1 concern throughout the state relating to their utilization, restoration,
2 and protection.

3 (b) The Legislature further finds and declares that the forest
4 resources and timberlands of the state furnish high-quality timber,
5 recreational opportunities, and aesthetic enjoyment while providing
6 watershed protection and maintaining fisheries and wildlife.

7 (c) The Legislature thus declares that it is the policy of this state
8 to encourage prudent and responsible forest resource management
9 calculated to serve the public's need for timber and other forest
10 products, while giving consideration to the public's need for
11 watershed protection, fisheries and wildlife, *sequestration of*
12 *carbon dioxide*, and recreational opportunities alike in this and
13 future generations.

14 (d) It is not the intent of the Legislature by the enactment of this
15 chapter to take private property for public use without payment of
16 just compensation in violation of the California and United States
17 Constitutions.

18 SEC. 2. Section 4512.5 is added to the Public Resources Code,
19 to read:

20 4512.5. The Legislature finds and declares all of the following:

21 (a) State forests play a critical and unique role in the state's
22 carbon balance by removing carbon dioxide from the atmosphere
23 and storing it long-term as carbon.

24 (b) Forests are the second largest source of carbon dioxide
25 emissions globally, and also are the most expandable long-term
26 carbon dioxide sink.

27 (c) Carbon dioxide emissions from forests are primarily due to
28 the loss of trees to harvest or converting forests to development
29 or agriculture.

30 (d) According to the scoping plan adopted by the State Air
31 Resources Board, the state's forests currently are an annual net
32 sequester of five million metric tons of carbon dioxide
33 (5MMTCO₂).

34 (e) The scoping plan proposes to maintain the current
35 5MMTCO₂ sequestration rate through 2020 by implementing
36 "sustainable management practices," which currently remain
37 undefined.

38 (f) There is increasing evidence that climate change has and
39 will continue to stress forest ecosystems, which underscores the

1 importance of proactively managing forests so that they can adapt
2 to these stressors and remain a net sequester of carbon dioxide.

3 (g) The board, the department, and the State Air Resources
4 Board should strive to go beyond the status quo sequestration rate
5 and ensure that all of their policies and regulations reflect the
6 unique role forests play in combating climate change.

7 SEC. 3. Section 4513 of the Public Resources Code is amended
8 to read:

9 4513. It is the intent of the Legislature to create and maintain
10 an effective and comprehensive system of regulation and use of
11 all timberlands so as to assure ~~that~~ *both of the following*:

12 (a) Where feasible, the productivity of timberlands is restored,
13 enhanced, and maintained.

14 (b) The goal of maximum sustained production of high-quality
15 timber products is achieved while giving consideration to values
16 relating to *sequestration of carbon dioxide*, recreation, watershed,
17 wildlife, range and forage, fisheries, regional economic vitality,
18 employment, and aesthetic enjoyment.

19 SEC. 4. Section 4551 of the Public Resources Code is amended
20 to read:

21 4551. (a) The board shall adopt district forest practice rules
22 and regulations for each district in accordance with the policies
23 set forth in Article 1 (commencing with Section 4511) of this
24 chapter and pursuant to Chapter 3.5 (commencing with Section
25 11340) of Part 1 of Division 3 of Title 2 of the Government Code
26 to assure the continuous growing and harvesting of commercial
27 forest tree species and to protect the soil, air, fish, ~~and~~ wildlife,
28 and water resources, including, but not limited to, streams, lakes,
29 and estuaries.

30 (b) *The board shall ensure that its rules and regulations*
31 *governing the harvesting of commercial forest tree species*
32 *maximize, to the extent feasible, the capacity of forest resources,*
33 *including aboveground and belowground biomass and soil, to*
34 *sequester carbon dioxide emissions.*

35 SEC. 5. Section 4551.3 of the Public Resources Code is
36 amended to read:

37 4551.3. (a) A sustained yield plan that is prepared and
38 approved in accordance with rules and regulations adopted by the
39 board pursuant to Section 4551, including Article 6.75
40 (commencing with Section 1091.1) of Subchapter 7 of Chapter 4

1 of Division 1.5 of Title 14 of the California Code of Regulations,
2 shall be effective for a period of no more than 10 years. *The plan*
3 *shall contain strategies or measures to mitigate or avoid, to the*
4 *maximum extent feasible, carbon dioxide emissions from the*
5 *harvest of commercial forest tree species, including emissions*
6 *associated with the disturbance to aboveground and belowground*
7 *biomass and soil.*

8 (b) As part of the continuing monitoring process for an approved
9 sustained yield plan, as described in subdivision (a), the department
10 shall hold a public hearing on the plan if requested by an interested
11 party who submits, in writing, a request based on substantial
12 evidence of potential noncompliance with any of the following:

13 (1) The terms and conditions of the original sustained yield plan
14 approval.

15 (2) The applicable provisions of the rules or regulations adopted
16 by the board that were in effect on the date the sustained yield plan
17 was originally approved.

18 (3) Other requirements that have been imposed on the sustained
19 yield plan by operation of law.

20 (c) The request shall identify specific issues in the plan to be
21 addressed at the public hearing. To be considered, a request shall
22 be made to the department within six months after the midpoint
23 of the effective term of a sustained yield plan described in
24 subdivision (a). The department shall hold the public hearing within
25 120 days after the date of the close of the six-month request period.
26 A sustained yield plan shall be effective for the remainder of its
27 term unless the director makes written findings, based on a
28 preponderance of evidence, that implementation of the sustained
29 yield plan is not in compliance with ~~any~~ a material provision of
30 paragraph (1), (2), or (3) of subdivision (b) .

31 (d) If a public hearing is required, the director shall provide at
32 least 30 days' notice to the plan submitter and the public and shall
33 provide for a record of the hearing, pursuant to regulations adopted
34 by the board.

35 SEC. 6. Section 4582 of the Public Resources Code is amended
36 to read:

37 4582. The timber harvesting plan shall be filed with the
38 department in writing by a person who owns, leases, or otherwise
39 controls or operates on all or ~~any~~ a portion of any timberland and
40 who plans to harvest the timber thereon. If the person who files

1 the plan is not the owner of the timberland, the person filing the
2 plan shall notify the timberland owner by certified mail that the
3 plan has been submitted and shall certify that mailing to the
4 department. The plan shall be a public record and shall include all
5 of the following information:

6 (a) The name and address of the timber owner.

7 (b) The name and address of the timber operator if known at
8 the time of filing. If the timber operator is not known at the time
9 of filing, the plan submitter shall notify the department as soon as
10 the timber operator is known, but in any case before timber
11 operations begin.

12 (c) A description of the land on which the work is proposed to
13 be done, including a United States Geological Survey quadrangle
14 map or equivalent indicating the location of all streams, the location
15 of all proposed and existing logging truck roads, and indicating
16 boundaries of all site I classification timberlands to be stocked in
17 accordance with subdivision (b) of Section 4561 and any other
18 site classifications if the board establishes specific minimum
19 stocking standards for other site classifications.

20 (d) A description of the silvicultural methods to be applied,
21 including the type of logging equipment to be used.

22 (e) An outline of the methods to be used to avoid excessive
23 accelerated erosion from timber operations to be conducted within
24 the proximity of a stream.

25 *(f) A description of strategies or measures to mitigate or avoid,*
26 *to the maximum extent feasible, carbon dioxide emissions from*
27 *timber operations, including the harvest of commercial forest tree*
28 *species, and those associated with the disturbance to aboveground*
29 *and belowground biomass and soil.*

30 ~~(f)~~

31 (g) Special provisions, if any, to protect any unique area within
32 the area of timber operations.

33 ~~(g)~~

34 (h) The expected dates of commencement and completion of
35 timber operations.

36 ~~(h)~~

37 (i) A certification by the registered professional forester
38 preparing the plan that he or she or a designee has personally
39 inspected the plan area.

40 ~~(i)~~

1 (j) Any other information the board provides by regulation to
2 meet its rules and the standards of this chapter.

3 ~~(j) This section shall become operative on January 1, 1996.~~

4 SEC. 7. The Legislature intends to enact legislation to impose
5 a timber yield fee upon harvested timber sufficient to cover the
6 costs of the Department of Forestry and Fire Protection to
7 administer the Z'Berg-Nejedly Forest Practice Act of 1973
8 (Chapter 8 (commencing with Section 4511) of Part 2 of Division
9 4 of the Public Resources Code).

10 SEC. 8. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.